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7 CALEB J. AZUCENA,
8 Plaintiff,
9 v.
10 RUNJYIN,
11 Defendant.

Case No. [23-cv-03234-HSG](#)

**ORDER GRANTING IN PART AND
DENYING IN PART REQUEST FOR
EXTENSION OF TIME TO EFFECT
SERVICE ON DEFENDANT RUNJYIN**

Re: Dkt. No. 13

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13 Plaintiff has filed a *Bivens* action against United States Customs and Border Protection
14 agent Runjyin. On April 22, 2024, the Court informed Plaintiff that the United States Marshal had
15 been unable to effect service on defendant Runjyin. The United States Marshal had been informed
16 by the Customs and Border Protection (“CBP”) that there was no employee with Runjyin as either
17 a first or last name. Dkt. No. 12. The Court ordered Plaintiff to, by May 19, 2024, either effect
18 service on defendant Runjyin or submit to the Court sufficient information to identify and locate
19 defendant Runjyin such that the Marshal is able to effect service. *Id.* The Court informed Plaintiff
20 that failure to comply with this deadline would result in the action being dismissed for failure to
21 effect service pursuant to Fed. R. Civ. P. 4(m). Plaintiff has requested an extension of time to July
22 15, 2024 to comply with this deadline, stating that Runjyin was the name on the individual’s
23 government-issued badge, and that he has “no means” to comply with the Court’s order. Dkt. No.
24 13.¹ Plaintiff has not explained why granting him a two-month extension of time would allow him

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26 ¹ In this pleading, Plaintiff also states that he has filed two state court actions that are currently
27 stayed pending the resolution of this action. Plaintiff has not indicated the subject matter of these
28 state court actions. However, the Court cautions Plaintiff that duplicative or repetitive litigation
of virtually identical causes of action is subject to dismissal under 28 U.S.C. § 1915 as malicious.
Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988). An *in forma pauperis* complaint that
merely repeats pending or previously litigated claims may be considered abusive and dismissed

1 to effect service, and according to Plaintiff's request for an extension of time, he is unable to
2 determine the individual's correct name so that the United States Marshal can effect service. The
3 Court therefore DENIES the request for an extension of time to July 15, 2024 to comply with the
4 Court's April 22, 2024 Order, but, in the interest of justice, GRANTS Plaintiff an extension of
5 time to June 17, 2024 to either effect service on defendant Runjin or submit to the Court
6 sufficient information to identify and locate defendant Runjin such that the Marshal is able to
7 effect service. Failure to comply with the deadline in this order will result in the action being
8 dismissed for failure to effect service pursuant to Fed. R. Civ. P. 4(m) without further notice to
9 Plaintiff.

10 This order terminates Dkt. No. 13.

11 **IT IS SO ORDERED.**

12 Dated: 5/15/2024

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14 HAYWOOD S. GILLIAM, JR.
15 United States District Judge

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United States District Court
Northern District of California

27 under § 1915. *Cato v. United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995); *Bailey*, 846 F.2d at
28 1021. An *in forma pauperis* complaint repeating the same factual allegations asserted in an earlier
case, even if now filed against new defendants, therefore is subject to dismissal as duplicative.
Bailey, 846 F.2d at 1021.